

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Helmut PEISE et al.

Serial No.: 10/815,192

Filed: March 31, 2004

For: Apparatus for Gasification of Combustion and
Waste Materials Containing Carbon and Ash

Examiner: Merkling, Matthew
Group Art: 1795

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
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REPLY BRIEF

S I R:

This is appellants reply brief in response to the Examiner's Answer mailed August 14, 2009 in accordance with 37 CFR 41.41.

The Examiner's Answer presents new points of arguments within section (10) Response to Argument.

Regarding the rejection under 35 U.S.C. §251, the Examiner states that one skilled in the art would not immediately realize that the originally claimed "fluidized bed" is contradictory to the specification because one skilled in the art would recognize that a fluidized bed reactor CAN be interpreted as an entrained flow reactor. However, if the latter statement is true, then the amendment that replaces "fluidized bed reactor" with --entrained flow reactor-- can not be considered to broaden the scope of the invention.

For the above reasons, and for the reasons described on pages 4-6 of the Appeal Brief, the rejection under 35 U.S.C. §251, should be withdrawn.

Regarding the rejection under 35 U.S.C. §103, the Examiner considers the shell 11 and floor 19 of Brooker to be the claimed "sidewall", despite the fact that Brooker expressly states that reference character 19 designates a floor. Accordingly, the Examiner's interpretation is flawed for at least this reason.

The Examiner further considers the refractory lining 22 of Brooker to be 'over' the cooling wall in an overlapping fashion. Even if this were true, which we don't believe it to be, this interpretation of Brooker ignores that the claim limitation recites "...an overlapping fashion to **compensate for different heat expansions.**" The Examiner does not address the latter emphasized portion of the limitation. Moreover, as explained in detail on pages 7-8 of the Appeal Brief, the throat section 31 of Booker (which the Examiner considers to be the "cooling wall") is a continuation of the gasifier floor and is therefore not overlapping with the refractory lining "to compensate for different heat expansions", as expressly recited in the independent claim 1.

For the foregoing reasons, it is respectfully submitted that appellants' claims are patentable over the art of record, and the Examiner's rejections should be reversed.

Respectfully submitted,
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